

UNITED STATES DISTRICT COURT
NORTHERN DISTRICT OF CALIFORNIA

Defendants.

DECLARATION OF JEAN LUEVANO

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I, JEAN LUEVANO, declare that:

1. I am an employee of the City of Hayward (“City”) and I have personal knowledge of the facts set forth in the within declaration and if called as a witness, I would testify to the following:

2. I am employed as a police officer for the Hayward Police Department (“HPD”), currently with the rank of Inspector, and currently assigned to the Office of Ethical Standards (“OES”). I am a custodian of records for HPD. Attached hereto as Exhibit A is a true and correct copy of the relevant portion of HPD Incident Report No. 2005-34234 which arises out of the arrest of Kevin Walker on December 9, 2005 at a Jack-in-the-Box Restaurant located at 1075

1 W.Tennyson Road, in Hayward.

2 I declare under penalty of perjury under the laws of the United States and the State of
3 California that the foregoing is true and correct, and that this declaration was executed on
4 January 3, 2008, at Hayward, California.

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7 JEAN LUEVANO
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REPORT NUMBER 2005-34234
HAYWARD POLICE DEPARTMENT - HAYWARD, CA

STATEMENT

<input type="checkbox"/> Informant <input type="checkbox"/> Suspect <input type="checkbox"/> Victim <input checked="" type="checkbox"/> Witness <input type="checkbox"/> Parent	Name (Last, First, MI) WARDAK, DAUD AHMAD		Race T	Sex M	D.O.B. _____
	Residence Address (Number, Street, Apt, City, State) Hayward		PFN#	Residence Phone	
	Other Address <input type="checkbox"/> Business <input type="checkbox"/> Mailing <input type="checkbox"/> School		DLID#	Other Phone	

I AM A SECURITY GUARD WORKING FOR AMERICAN DISCOUNT SECURITY. THE JACK-IN-THE-BOX RESTURANT AT 1075 W. TENNYSON ROAD IN HAYWARD IS ONE OF THE BUSINESSES WE HAVE A CONTRACT WITH. TONIGHT, I WAS AT THAT JACK-IN-THE-BOX, CHECKING ON THINGS. I SPOKE WITH THE STORE MANAGER, SHARON, WHO TOLD ME EVERYTHING WAS FINE. WHILE I WAS INSIDE THE STORE, THREE GUYS CAME TO THE SOUTH SIDE DOOR AND STARTED BANGING ON THE DOOR. MY PARTNER TOLD THE GUYS THEY HAD TO LEAVE BECAUSE THE BUSINESS WAS CLOSED. THE GUYS STILL WANTED IN, SO I TOLD THEM THEY HAD TO LEAVE. THEY STARTED BANGING ON THE GLASS VERY HARD ^{not too hard} LIKE THEY WERE TRYING TO BREAK THE GLASS IN. I TOLD THEM TO STOP, AND THEY SAID, "FUCK YOU! FUCK YOU!" THEY WERE WALKING AROUND THE STORE, AND I TOLD THEM TO GET OFF THE PROPERTY, BUT THEY SAID, "FUCK NO. WE ARE HUNGRY. YOU ARNEN'T SHIT." I TOLD THEM I WAS GOING TO CALL THE POLICE AND HAVE THEM ARRESTED FOR TRESPASSING. THEY TOLD ME TO GO AHEAD AND CALL THE POLICE. THEY WERE ALL ACTING VERY ANGRY AND HOSTILE, SO I CALLED THE POLICE. A COUPLE MINUTES LATER, THE POLICE SHOWED UP. THERE WERE TWO OFFICERS WHO ARRIVED IN A BLACK CAR. I POINTED OUT THE SUSPECTS, WHO WERE STILL ON THE SOUTH SIDE OF THE STORE. THE OFFICERS TOLD THE GUYS TO TAKE THEIR HANDS OUT OF THEIR POCKETS AND TURN AROUND. ONLY TWO OF THE GUYS WERE STILL HERE. THE OTHER GUY LEFT BEFORE THE POLICE SHOWED UP. THE OFFICERS WERE PROFESSIONAL AND POLITE WHEN THEY FIRST CONTACTED THE TWO SUSPECTS. THEY TOLD THE GUYS TO TURN AROUND THREE TIMES, AND THEN THE TALL GUY SAID, "NO!"

-- OVER --

Officer/Computer I.D.: J. SNEEL #429 SJ9506	Date/Time: 12-9-05 2355	Victim Advised Per: 293PC <input type="checkbox"/> Yes <input checked="" type="checkbox"/> No	Entry Clerk
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Routing: CLETS, DA, DB, GANG, IA, JUV ARR, JUV 300, PROP, VICE, YFSB, DISTRICTIVE, NARCOTICS

OTHER:
12/05

EXHIBIT A

Statement Continuation

Name: WARDAK, DAVIDREPORT NUMBER 2005-30237

HAYWARD POLICE DEPARTMENT - HAYWARD, CA

FUCK YOU! WHY SHOULD I?" THEN THE OFFICERS WALKED UP TO THE SUSPECTS. ONE OFFICER TOOK HOLD OF THE TALL GUYS ARM, BUT THE GUY VIOLENTLY PULLED AWAY FROM HIM AND SAID, "NO WAY!" THAT'S WHEN THE OFFICER GRABBED HIS ARM AND DROVE HIM TO THE GROUND. THE SHORTER GUY WAS ALSO RESISTING THE OFFICERS BY SAYING, "NO! WHY?" AND PULLING AWAY. THE OFFICERS BROUGHT HIM TO THE GROUND ALSO. ONCE BOTH GUYS WERE ON THE GROUND, THE COPS IMMEDIATELY HANDCUFFED THEM. THERE WAS NO MORE FIGHTING AFTER THAT. I AM ARRESTING BOTH OF THOSE GUYS FOR TRESPASSING ON JACK-IN-THE-BOX PROPERTY. MY PARTNER TOLD THEM TO LEAVE 7 OR 8 TIMES. AND I TOLD THEM TO LEAVE 2 TIMES BEFORE THE POLICE CAME. THIS IS TRUE, X

David Wardak

Per Penal Code Section 293 I advised victim(s) that his/her name will become a matter of public record unless victim(s) requests confidentiality pursuant to Government Code Section 6254 Confidentiality requested. ☐ Yes ☒ No

Signature of Informed party _____

Date/Time _____

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